

United States Courts
Southern District of Texas
FILED

AUG 17 2020

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____ Division

Case No. _____

(to be filled in by the Clerk's Office)

Eric J. Leticia et al (see attached)
Plaintiff(s)
(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Lina Hidalgo et al
Defendant(s)
(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint

A. The Plaintiff(s) *See Attached for Additional Plaintiffs*

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Eric Jolivet et al (see attached)
 All other names by which
 you have been known: N/A
 ID Number 02238241
 Current Institution HARRIS COUNTY SHERIFF'S OFFICE JAIL
 Address 1200 BAKER ST. CELL 2A1A
HOUSTON TX 77002
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name Lina Hidalgo
 Job or Title (*if known*) N/A
 Shield Number Harris County Judge
 Employer Unknown
 Address 1001 Preston Suite # 911
Houston TX 77002
City State Zip Code
☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name Ed Gonzales
 Job or Title (*if known*) Harris County Sheriff
 Shield Number Unknown
 Employer Harris County Jail Administrator
 Address 1200 Baker Street / 701 San Jacinto
Houston TX 77002
City State Zip Code
☐ Individual capacity ☒ Official capacity

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Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

Administrators of Harris County
and its Agents thereof
Unknown
Harris County
County of Harris
Houston TX 77

☐ Individual capacity ☒ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

NA

☐ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☒ Federal officials (a *Bivens* claim)
☐ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

"Diliberate Indifference" Eight Amendment violation

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

NA

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- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Each Defendant violated my eighth AMENDMENT CONSTITUTIONAL Right of cruel and unusual punishment by standards not authorized under Harris County Administrative and Judicial status.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee
☐ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

↑
The deprivation of proper cleaning equipment and materials.
Denied the access to adequate exposure to sunlight and fresh air
Denied the opportunity to maintain social distancing
 ↓

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

INTL INSIDE The 1200 St Baker Jail of Harris County TX
Texas During and from March 1st 2020 till currently

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C. What date and approximate time did the events giving rise to your claim(s) occur?

From March 2020 thru today's date of August 2020

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Because of the structure of the Building of the 1200 Baker Street Jail, There are "NO WINDOWS" in its overall construction thereby, eliminating any possibility of receiving "ULTRA-VIOLET" (vitamin D) from sunlight and in light of the GLOBAL Pandemic of "COVID 19", conditions at the Harris County Jail, prohibits the possibility of maintaining Social Distancing and proper sanitation.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

for the lack of sunlight exposure, each Plaintiff suffer obesity, high Blood Pressure, increased Blood Glucose Levels, Thyroid problems and Mental complications, as a result of limited to cleaning supplies, sanitizing supplies in dorms and cells, and not being allowed the opportunity to stay at least 6 feet apart, each Plaintiff has been tested positive for coronavirus, and received hospitalization for treatment

VI. Relief

and returned to "LIKE CONDITIONS" being further exposed to the coronavirus
State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Award monetary relief to each Plaintiff in the amount of \$1.5 million (One Million Five Hundred Thousand Dollars) 500,000.00 for Punitive Damages
500,000.00 for Pain and Suffering
500,000.00 for Mental Anguish

And Instruct the Administrator's of Harris County Jurisprudence, to comply with Local, State and Federal Regulations.

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VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

The Harris County Jail, 1200 Baker St. Houston Tx 77002

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☒ Do not know

If yes, which claim(s)?

I have Not received a response from the "Grievance Board" since the initial filing of the Grievance dated, 07-21-2020

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

with the Harris County Sherriffs Office

2. What did you claim in your grievance?

Eight Amendment Violations: Sunlight deprivation, continued exposure to other pre-trial detainees whom are recently arrested and "HOUSED" in General Population, ~~inadequate cleaning supplies and sanitizers~~, inability to maintain proper distancing from positive COVID 19 offenders

3. What was the result, if any?

Pending Investigation

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Grievance process is incomplete!

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

NA

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

NA

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

NA

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

NA

Defendant(s)

NA

2. Court (if federal court, name the district; if state court, name the county and State)

NA

3. Docket or index number

NA

4. Name of Judge assigned to your case

NA

5. Approximate date of filing lawsuit

NA

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition.

NA

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

NA

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

NO

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- ☐ Yes
☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

NA

Defendant(s)

NA

2. Court (If federal court, name the district; if state court, name the county and State)

NA

3. Docket or index number

NA

4. Name of Judge assigned to your case

NA

5. Approximate date of filing lawsuit

NA

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition

NA

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

NA

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 08/11/2020

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

E. Jolivet Eric Jolivet
Eric Jolivet
02238241
1200 BAKER Street
Houston TX 77002
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City State Zip Code

Telephone Number

E-mail Address

AO 240 (Rev. 07/10) Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)

UNITED STATES DISTRICT COURT for the

<u>Eric Jolivet et al</u>)	
Plaintiff/Petitioner)	
v.)	Civil Action No.
<u>Lina Hidalgo et al</u>)	
Defendant/Respondent)	

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: Harris County Jail, Harris County Texas.
 If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

My gross pay or wages are: \$ 0, and my take-home pay or wages are: \$ 0 per
 (specify pay period) 0.

3. *Other Income.* In the past 12 months, I have received income from the following sources (check all that apply):

(a) Business, profession, or other self-employment	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
(b) Rent payments, interest, or dividends	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
(c) Pension, annuity, or life insurance payments	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
(d) Disability, or worker's compensation payments	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
(e) Gifts, or inheritances	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(f) Any other sources	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

AO 240 (Rev. 07/10) Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)

4. Amount of money that I have in cash or in a checking or savings account: \$ 0.

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name (describe the property and its approximate value):

NO

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (describe and provide the amount of the monthly expense):

NO

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

None

8. Any debts or financial obligations (describe the amounts owed and to whom they are payable):

\$427.43 Account Payable to: Harris County

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: 08/11/2020

Eric Jolivet
Applicant's signature

Eric Jolivet
Printed name

Houston Division

ADDRESS, HOURS, SECURITY and ELECTRONIC DEVICE POLICY

Location:

United States Courthouse
515 Rusk Avenue
Houston, TX 77002

Correspondence:

David J. Bradley
Clerk of Court
P. O. Box 61010
Houston, TX 77208

Inmate Balance History Report - Simple

Created: 4/20/2020 11:45:49AM

Between: 3/3/2020 12:00:00AM - 4/20/2020 11:59:59PM

Number: 02238241

Secondary: 004369210

Location: JA09 2A1A 01L 0000

Name: JOLIVETTE, ERIC DEVON

<u>Transaction</u>	<u>Date</u>	<u>Transaction Amount</u>	<u>Running Balance</u>	<u>Running Owed</u>	<u>Running Other</u>
Beginning Totals:	03/03/2020 12:00:00AM		0.00	(487.94)	0.00
TOUCHPAY BOOKING DEPOSIT	03/04/2020 03:26:35PM	0.00	0.00	(487.94)	0.00
PHYSICIAN / NURSE	03/13/2020 11:53:52AM	(16.00)	0.00	(503.94)	0.00
INTAKE CREDIT	04/17/2020 11:40:59AM	76.51	0.00	(427.43)	0.00
Ending Totals:			0.00	(427.43)	0.00

Additional Plaintiffs in 1983 Class Action

1. Darrell Wayne Watson # 00258164
Harris County Jail
1200 Baker Street
Houston, Tx. 77002
2. Kenneth Wayne HARPER # 00331713
HARRIS COUNTY JAIL
1200 BAKER Street
Houston, TX. 77002
3. RICHARD DERWIN HOWARD # 02327206
HARRIS COUNTY JAIL
1200 BAKER ST
HOUSTON, TX 77002
4. LEAMON Dewayne O'BRYAN # 02048984
Harris County Jail
1200 Baker St 2A1A
Houston TX 77002
- 5) Joey Harper # 02400242
Harris County Jail
1200 Baker St 2A1A
Houston Tx 77002
- 6) Martin Hernandez # 01068542
Harris County Jail
1200 Baker St.
Houston Tx 77002
- 7 Edward James Gipson # 03056993

HARRIS COUNTY SHERIFF'S OFFICE JAIL

Name: Mr Eric Jolivet
SPN: 02238241 Cell: 2A 1A
Street 1200 Baker St

HOUSTON, TEXAS 77002



United States Courts
Southern District of Texas
FILED

AUG 17 2020

David J. Bradley, Clerk of Court

INDIGENT

David J. Bradley
Clerk of Court
P.O. Box 61010
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